



Atty. Dkt. No. 083847-0109

DAC/9  
ZJW

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Chad A. MIRKIN et al.  
Title: METHODS UTILIZING SCANNING PROBE MICROSCOPE TIPS  
AND PRODUCTS THEREFOR OR PRODUCED THEREBY  
Patent No.: 6,827,979 ( S.N.: 09/866,533 filed 5/24/2001)  
Issue Date: 12/07/2004  
Examiner: William P. Fletcher, III  
Art Unit: 1762

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**PURSUANT TO 37 CFR 1.705(d)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR § 1.705(d), Applicants respectfully request reconsideration of patent term adjustment (PTA) subsequent to the issuance of the patent. In support thereof, Applicants submits the following:

1. On November 17, 2004, the Office of Petitions granted applicants' request for reconsideration of PTA (copy attached) and awarded an additional patent term of 487 days due to Patent Office delay.

6. On November 18, 2004, the Patent Office issued an "issue notification" (copy attached) indicating that the application would issue as U.S. Patent No. 6,827,979 on December 7, 2004. The issue notification also indicated that applicants are entitled to 431 days of additional patent term, as opposed to 487 days.

7. Applicants again request reconsideration of the PTA pursuant to 37 CFR § 1.705(d) based on an incorrect PAIR entry reflecting that the issue fee was paid on November 2, 2004 (see attached PAIR PTA history printed 2/03/2005).

02/08/2005 SDENB082 00000085 09866533

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200.00 OP

-1-

002.1339134.1

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8. The issue fee was paid on July 21, 2004 (copy attached with date-stamped postcard) and the patent issued on December 7, 2004, hence, applicants are entitled to a total of 503 days of patent term (see applicants PTA calculation attached).

8. The non-extendible deadline for this request is February 7, 2005.

9. Applicants also enclose a check for the requisite fee of \$200 in accordance with 37 CFR 1.18(e).

**REMARKS**


In view of the foregoing statement of facts, attachments and following remarks, Applicants request that the PTA of 431 days indicated in the Issue Notification dated November 18, 2004, be adjusted and that applicants be awarded a total of 503 days of PTA for a delay from payment of the issue fee on July 21, 2004 to issuance of the patent on December 7, 2004.

Although Applicants believe that no further fees are due, the Commissioner is authorized to charge any additional fees, or credit any overpayment, to Deposit Account No. 19-0741.

Respectfully submitted,

Date February 7, 2005

FOLEY & LARDNER LLP  
Customer Number: 23533  
Telephone: (202) 672-5569  
Facsimile: (202) 672-5399

By 

J. Steven Rutt  
Attorney for Applicant  
Registration No. 40,153



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**OFFICE OF PETITIONS**

DOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

In re Application  
Mirkin et al.  
Application No. 09/866,533  
Filed: May 24, 2001  
Atty Docket No. 4183-1-1

:  
:  
: DECISION ON APPLICATION  
: FOR PATENT TERM ADJUSTMENT  
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 21, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred nineteen (419) days to four hundred eighty-seven (487) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred eighty-seven (487) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 7, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 419 days. On July 21, 2004, applicants timely submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 68 days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed August 2, 2001.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The reduction of 68 days has been found to be incorrect. A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed August 2, 2001, is of record in the application with a date of receipt by the Office of October 25, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should

The Issue Fee payment was received by the Office on July 21, 2004.

not have assessed applicants a delay of 68 days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicants' delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred eighty-seven (487) days.

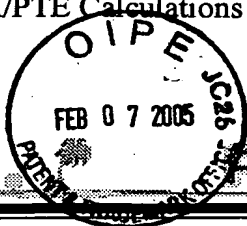
The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

*Karin Ferriter*  
Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen



Day : Monday  
Date: 11/15/2004

Time: 13:27:56

### PTA Calculations for Application: 09/866533

Application Filing Date:	05/24/2001	PTO Delay (PTO):	495
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	76
Post-Issue Petitions:	0	Total PTA (days):	487
PTO Delay Adjustment:	68		

### File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	11/15/2004	ADJUSTMENT OF PTA CALCULATION BY PTO	68		
29	06/07/2004	MAIL NOTICE OF ALLOWANCE			
28	06/07/2004	MAIL EXAMINER'S AMENDMENT			
27	06/01/2004	ISSUE REVISION COMPLETED			
26	06/01/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	06/01/2004	EXAMINER'S AMENDMENT COMMUNICATION			
24	06/01/2004	NOTICE OF ALLOWABILITY			
23	03/18/2004	DATE FORWARDED TO EXAMINER			
22	03/09/2004	RESPONSE AFTER NON-FINAL ACTION		8	19
21	03/09/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	02/10/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
19	12/01/2003	MAIL NON-FINAL REJECTION	495		-1
18	11/24/2003	NON-FINAL REJECTION			
17	11/24/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	11/24/2003	REFERENCE CAPTURE ON IDS			
15	10/15/2003	PRELIMINARY AMENDMENT			
14	08/08/2003	PRELIMINARY AMENDMENT			
13	07/30/2002	CORRESPONDENCE ADDRESS CHANGE			
12	07/31/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	07/16/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	10/25/2001	PRELIMINARY AMENDMENT			
9	01/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

8	11/15/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/15/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	01/10/2002	APPLICATION DISPATCHED FROM OIPE			
5	01/09/2002	APPLICATION IS NOW COMPLETE		68	4
4	08/02/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	08/02/2001	CORRESPONDENCE ADDRESS CHANGE			
2	06/08/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/24/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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[www.uspto.gov](http://www.uspto.gov)

FEB 07 2005

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,533	12/07/2004	6827979	4183-1-1	4605

22428 7590 11/18/2004

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

## ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

### Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment is 431 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

APPLICANT(s) (up to 18 names are included below, see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Chad A. Mirkin, Wilmette, IL;  
Richard Piner, Des Plaines, IL;  
Seunghun Hong, Chicago, IL;





Title: METHODS UTILIZING SCANNING PROBE MICROSCOPE TIPS AND  
PRODUCTS THEREFOR OR PRODUCED THEREBY

Inventors: Chad A. Mirkin *et al.*

Dkt. No. 083847-0109

Appl. No.: 09/866,533

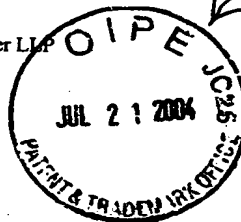
SRU/smw/daf (07/21/2004)

- Issue & Publication Fee Transmittal, PTOL-85 (1 pg.);
- Removal of Assertion of Small Entity Status (1 pg.);
- Request for Reconsideration of Patent Term Adjustment Pursuant to 37 CFR 1.705(b)
- Check No. 37337 for \$1,830.00

Respectfully,  
Foley & Lardner LLP

Due: September 7, 2004

Inspector: \_\_\_\_\_



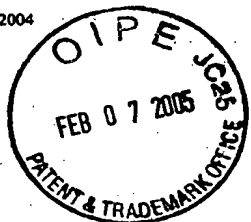
Complete and send this form, together with applicable fee(s), to: **Mail**

**Mail Stop ISSUE FEE  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (703) 746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Legibly mark-up with any corrections or use Block 1)

22428 7590 06/07/2004  
**FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007**



Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,533	05/24/2001	Chad A. Mirkinn	4183-1 083847-0094605	

**TITLE OF INVENTION:** METHODS UTILIZING SCANNING PROBE MICROSCOPE TIPS AND PRODUCTS THEREFOR OR PRODUCED THEREBY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	<del>YES</del> NO	\$65 1330	\$300	\$965 1630	09/07/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
FLETCHER III, WILLIAM P	1762	427-256000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

Foley & Lardner LLP

2 \_\_\_\_\_  
3 \_\_\_\_\_

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

**NORTHWESTERN UNIVERSITY**

**Evanston, Illinois**

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☒ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 19-0741 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) J. Steven Rutt (Date) July 21, 2004

**J. Steven Rutt, Reg. No. 40,153**

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for lessening this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.**

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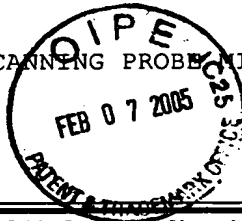
**TRANSMIT THIS FORM WITH FEE(S)**

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09/866,533 METHODS UTILIZING SCANNING PROBE MICROSCOPE TIPS AND PRODUCTS THEREFOR OR

PRODUCED THEREBY

## Patent Term Adjustment History



Patent Term Adjustment (PTA) for Application Number: 09/866,533			
			Days
Filing or 371(c) Date:	05-24-2001	USPTO Delay (PTO):	495
Issue Date of Patent:	12-07-2004	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	132
Post-Issue Petitions (days):	+0	Total PTA:	431
USPTO Adjustment(days):	68	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
12-07-2004	Patent Issue Date Used in PTA Calculation		
11-17-2004	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
11-17-2004	PTA 36 Months		
11-15-2004	Adjustment of PTA Calculation by PTO		
11-15-2004	Adjustment of PTA Calculation by PTO	68	
11-12-2004	Receipt into Pubs	↑	
11-10-2004	Dispatch to FDC	↑	
11-10-2004	Dispatch to FDC	↑	
11-10-2004	Petition Decision - Granted	↑	
11-10-2004	Application Is Considered Ready for Issue	↑	
11-02-2004	Mailroom Date of Issue Fee Payment	↑	56
11-02-2004	Statement Filed Indicating a Loss of Entitlement to Small Entity Status	↑	↑
09-10-2004	Receipt into Pubs	↑	↑
07-21-2004	Issue Fee Payment Recorded	↑	↑
06-21-2004	Receipt into Pubs	↑	↑
06-21-2004	Workflow - File Sent to Contractor	↑	↑
06-07-2004	Mail Notice of Allowance	↑	↑
06-07-2004	Mail Examiner's Amendment	↑	
06-01-2004	Issue Revision Completed	↑	
06-01-2004	Notice of Allowance Data Verification Completed	↑	
06-01-2004	Examiner's Amendment Communication	↑	
06-01-2004	Notice of Allowability	↑	
03-18-2004	Date Forwarded to Examiner	↑	
03-09-2004	Response after Non-Final Action	↑	8
03-09-2004	Request for Extension of Time - Granted	↑	↑
02-10-2004	Examiner Interview Summary Record (PTOL - 413)	↑	↑

← incorrect entry  
if paid

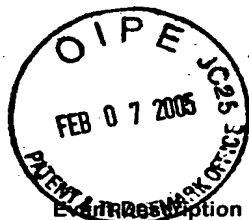
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11-24-2003	IFW TSS Processing by Tech Center Complete	↑	
11-24-2003	Reference capture on IDS	↑	
10-15-2003	Preliminary Amendment	↑	
08-08-2003	Preliminary Amendment	↑	
07-31-2002	Change in Power of Attorney (May Include Associate POA)	↑	
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10-25-2001	Preliminary Amendment	↑	
08-02-2001	Notice Mailed--Application Incomplete-- Filing Date Assigned	↑	↑
08-02-2001	Correspondence Address Change	↑	
06-08-2001	IFW Scan & PACR Auto Security Review	↑	
05-24-2001	Initial Exam Team nn	↑	

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## Patent Term Adjustment Calculation System



Add a new event to this case

Docket Number: 083847-0109

Application Number: 09/866533

Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	05/24/2001	0		
Edit Delete	Notice to File Missing Parts	08/02/2001	70		
Edit Delete	Response to Notice to File Missing Parts	10/25/2001	154		
	14 month From Application date	07/24/2002	426		
Edit Delete	PTO Action	12/01/2003	921	495	
	PTO Action + 3 months	03/01/2004	1,012		
Edit Delete	PTO Action Response Received at PTO	03/09/2004	1,020		8
Edit Delete	Notice of Allowance	06/07/2004	1,110		
Edit Delete	Issue Fee Paid	07/21/2004	1,154		
	Issue Fee Paid + 4 months	11/21/2004	1,277		
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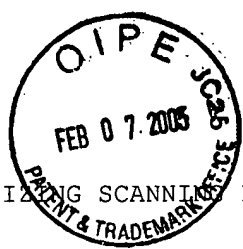
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**FOLEY**

LOGIN: Dexter Forbes

IP: 10.31.7.233

Foley &amp; Lardner LLP



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09/866,533 METHODS UTILIZING SCANNING PROBE MICROSCOPE TIPS AND PRODUCTS THEREFOR OR

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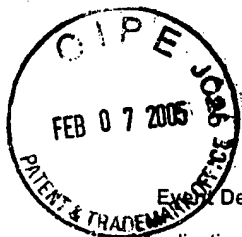
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06-08-2001	IFW Scan & PACR Auto Security Review	↑	
05-24-2001	Initial Exam Team nn	↑	

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## Patent Term Adjustment Calculation System



Add a new event to this case

Docket Number: 083847-0109  
Application Number: 09/866533  
Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	05/24/2001	0		
Edit Delete	Notice to File Missing Parts	08/02/2001	70		
Edit Delete	Response to Notice to File Missing Parts	10/25/2001	154		
	14 month From Application date	07/24/2002	426		
Edit Delete	PTO Action	12/01/2003	921	495	
	PTO Action + 3 months	03/01/2004	1,012		
Edit Delete	PTO Action Response Received at PTO	03/09/2004	1,020		8
Edit Delete	Notice of Allowance	06/07/2004	1,110		
Edit Delete	Issue Fee Paid	07/21/2004	1,154		
	Issue Fee Paid + 4 months	11/21/2004	1,277		
Edit Delete	Patent Grant Date	12/07/2004	1,293	16	
	Totals:			511	8
	PTA:				503

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